

H.225

Introduced by Representatives Masland of Thetford, Donahue of Northfield,
Batchelor of Derby, Branagan of Georgia, Browning of
Arlington, Clarkson of Woodstock, Consejo of Sheldon, Davis
of Washington, Devereux of Mount Holly, Evans of Essex,
Fisher of Lincoln, Haas of Rochester, Hooper of Montpelier,
Kupersmith of South Burlington, Lanpher of Vergennes, Lenes
of Shelburne, Lewis of Berlin, Macaig of Williston, Marcotte of
Coventry, Martin of Springfield, Moran of Wardsboro, Pearson
of Burlington, Ram of Burlington, Sharpe of Bristol, Shaw of
Derby, Stevens of Waterbury, Till of Jericho, Townsend of
Randolph, Townsend of South Burlington, Weed of Enosburgh,
Yantachka of Charlotte, and Zagar of Barnard

Referred to Committee on

Date:

Subject: Internal security and public safety; training of law enforcement
officers; electronic control device certification training

Statement of purpose of bill as introduced: This bill proposes to establish a
statewide policy on the training requirements for electronic control devices;
authorize the Criminal Justice Training Council to develop regulations and
training for electronic control devices; and require coordination of training for

1 the use of electronic control devices between the Criminal Justice Training
2 Council and the Department of Mental Health.

3 An act relating to a statewide policy on the use of and training requirements
4 for electronic control devices

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 ~~Sec. 1. 20 V.S.A. § 2367 is added to read:~~

7 ~~§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;~~

8 ~~REPORTING~~

9 ~~(a) The Department of Public Safety shall establish a statewide policy on~~
10 ~~the use of and training requirements for electronic control devices. The policy~~
11 ~~shall include the following provisions:~~

12 ~~(1) Electronic control devices are alternatives to lethal force but are not~~
13 ~~nonlethal.~~

14 ~~(2) Electronic control devices shall be limited to use under the same~~
15 ~~standards that justify the use of lethal force or that will directly reduce an~~
16 ~~imminent risk of a person's death through self-harm.~~

17 ~~(3) Electronic control devices shall not be used for the primary purpose~~
18 ~~of subduing an individual, of obtaining compliance, or as punishment.~~

19 ~~(4) The use of electronic control devices shall comply with all~~
20 ~~recommendations by manufacturers for the reduction of risk of injury to~~

1 ~~subjects, including situations where a subject's physical susceptibilities are~~
2 ~~known.~~

3 (5) The use of electronic control devices shall include recognition of the
4 heightened risk that misuse can result from situations in which subjects have
5 cognitive disabilities or are in emotional crises that interfere with the ability to
6 understand consequences of action. These circumstances require steps to
7 prevent unwarranted use of electronic control devices.

8 (b) The Criminal Justice Training Council shall adopt rules and develop
9 training to ensure that the policies and standards of this section are met. The
10 Criminal Justice Training Council shall ensure that a law enforcement officer
11 receives appropriate and sufficient training before becoming authorized to
12 carry or use an electronic control device.

13 (c) The Criminal Justice Training Council shall coordinate training
14 initiatives with the Department of Mental Health related to law enforcement
15 interventions, training for joint law enforcement and mental health crisis team
16 responses, and enhanced capacity for mental health emergency responses.

17 (d) The Attorney General's Office shall report annually on or before
18 December 15 to the General Assembly on all incidents involving the use of an
19 electronic control device, a review of compliance with standards under this
20 section, the adequacy of certification requirements established under this

section, and the adequacy of funding for the mental health collaboration
required by this section.

(e) As used in this section:

(1) "Electronic control device" means a device primarily designed to
disrupt an individual's central nervous system by means of deploying electrical
energy sufficient to cause uncontrolled muscle contractions and override an
individual's voluntary motor responses.

(2) "Law enforcement officer" means a sheriff, deputy sheriff,
constable, police officer, state's attorney, capitol police officer, state game
warden, state police officer, or certified law enforcement officer of the
Department of Motor Vehicles, the Agency of Natural Resources, or the
Department of Liquor Control.

Sec. 2. REPORTS

(a) On or before December 15, 2013, the Criminal Justice Training Council
shall report to the General Assembly on the progress made implementing the
rules, training, and certification standards required by this act.

(b) On or before December 15, 2013, the Department of Mental Health
shall report to the General Assembly on the adequacy of funding to support the
requirements of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

~~Sec. 1. 20 V.S.A. § 2367 is added to read:~~

~~§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;~~

~~REPORTING~~

~~(a) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt this policy. The policy shall include the following provisions:~~

~~(1) Electronic control devices are less-lethal alternatives to lethal force.~~

~~(2)(A) Officers may deploy an electronic control device:~~

~~(i) in response to an actively resistant subject, if there is reason to believe that using another compliance technique will result in a greater risk of injury to the officer, the subject, or a third party; and~~

~~(ii) in response to an assaultive subject when lethal force does not appear to be objectively reasonable.~~

~~(B) Neither an officer, a subject, or a third party has to actually suffer an injury before an officer is permitted to use an electronic control device, and officers are not required to use alternatives that increase the danger to themselves or the public.~~

~~(C) When it is safe to do so, officers shall attempt to deescalate situations by their presence or through the use of verbal persuasion, and shall provide a warning prior to deploying an electronic control device.~~

~~(3) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resistance subjects. The act of fleeing or destroying evidence, in and of itself, does not justify the use of an electronic control device.~~

~~(4) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.~~

~~(5) The use of electronic control devices shall include recognition of the potential additional risks that can result from situations in which subjects have cognitive disabilities or are in emotional crises that interfere with the ability to understand consequences of action. Special consideration should be given to whether other types of force are reasonably available to effectuate custody of or facilitate control over a member of one of these special populations while still preserving the safety of that person, third parties, and the responding officer.~~

~~(6) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive animals that threaten the safety of~~

~~officers or others.~~

~~(b) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.~~

~~(c) On or before June 30, 2017, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a).~~

~~(d) (e) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.~~

~~(e) (f) Every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.~~

~~(f) (g) As used in this section:~~

~~(1) "Electronic control device" means a device primarily designed to disrupt an individual's central nervous system by means of deploying electrical~~

~~energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.~~

~~(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer, state's attorney, capitol police officer, state game warden, state police officer, or certified law enforcement officer of the Department of Motor Vehicles, the Agency of Natural Resources, or the Department of Liquor Control.~~

Sec. 2. REPORTS

~~(a) On or before December 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary on the progress made implementing the rules, training, and certification standards required by this act.~~

~~(b) On or before December 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and Judiciary on the adequacy of funding to support the requirements of this act.~~

~~(c) On March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy~~

~~of training and certification requirements, and the adequacy of funding for
mental health collaboration.~~

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Sec. 1. 20 V.S.A. § 2367 is added to read:

*§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;
REPORTING*

(a) As used in this section:

*(1) “Electronic control device” means a device primarily designed to
disrupt an individual’s central nervous system by means of deploying electrical
energy sufficient to cause uncontrolled muscle contractions and override an
individual’s voluntary motor responses.*

*(2) “Law enforcement officer” means a sheriff, deputy sheriff, police
officer, capitol police officer, State game warden, State Police officer,
constable who exercises law enforcement authority pursuant to 24 V.S.A.
§ 1936a and who is trained in compliance with section 2358 of this title, and a
certified law enforcement officer employed by a State branch, agency, or
department, including the Department of Motor Vehicles, the Agency of
Natural Resources, the Office of the Attorney General, the Department of
State’s Attorney, the Secretary of State, and the Department of Liquor Control.*

(b) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for the use of electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency and every constable who is not employed by a law enforcement agency shall adopt this policy. If a law enforcement agency or officer that is required to adopt a policy pursuant to this subsection fails to do so on or before January 1, 2016, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Law Enforcement Advisory Board. The policy shall include the following provisions:

(1) Electronic control devices are less-lethal, but not necessarily non-lethal, alternatives to lethal force.

(2) Officers may deploy an electronic control device only:

(A) against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer's judgment, is likely to result in injuries to others or themselves; or

(B) if, without further action or intervention by the officer, injuries to the subject or others will likely occur.

(3) Neither an officer, a subject, or a third party has actually to suffer an injury before an officer is permitted to use an electronic control device, and

officers are not required to use alternatives that increase the danger to the public or themselves.

(4) When it is safe to do so, officers shall attempt to de-escalate situations and shall provide a warning prior to deploying an electronic control device.

(5) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resisting subjects. The act of fleeing or of destroying evidence, in and of itself, does not justify the use of an electronic control device.

(6) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.

(7) Electronic control devices shall be used in a manner that recognizes the potential additional risks that can result from situations:

(A) involving persons who are in an emotional crisis that may interfere with their ability to understand the consequences of their actions or to follow directions;

(B) involving persons with disabilities whose disability may impact their ability to communicate with an officer, or respond to an officer's directions; and

(C) involving higher risk populations that may be more susceptible to injury as a result of electronic control devices.

(8) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive behavior that threatens the safety of officers or others.

(c) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(d) On or before June 30, 2017, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a), and every constable who is not employed by a law enforcement agency shall have completed this training.

(e) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.

(f) Every State, local, county, and municipal law enforcement agency and every constable who is not employed by a law enforcement agency shall report

all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras;

(2) establish a policy on the calibration and testing of electronic control devices;

(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and

(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection.

Sec. 2. REPORTS

(a) On or before January 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary on the progress made implementing the rules, training, and certification standards required by this act.

(b) On or before January 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and on Judiciary on the adequacy of resources to support the requirements of this act.

(c) On or before March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy of training and certification requirements, and the adequacy of funding for mental health collaboration.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.